

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 3070 - HB 3459**

February 28, 2012

**SUMMARY OF BILL:** Revises the Tennessee Business Corporation Act to conform to the Model Business Corporation Act. If the corporate charter authorizes, action may be taken by written consent of less than all shareholders. Shareholders will have to provide their consent to receive email notices and documents; however, the company charter could provide that notices to directors may be by email even without director consent. Permits a Tennessee corporation to merge or convert into any other entity organized under Tennessee business entity laws or another state's business entity laws and establishes a filing fee of \$100 for the Articles of Conversion. Allows conversion of a corporation to another entity to be effected with the same voting requirement as a merger instead of the current unanimous requirement, but the shareholder could exercise dissenter's rights and cash out if he/she did not want to become an owner of the converted entity. Requires, if a merger would result in a shareholder becoming subject to owner liability for the obligations of the surviving entity, the separate written consent of such shareholder. Changes the notice period to shareholders for a short-form "cash out" merger of a 90 percent subsidiary from one month before the merger to 10 days following the merger. Eliminates the current requirement that a corporation have a President and/or a Secretary. Gives directors the right to inspect records already possessed by shareholders. Eliminates the requirement of an annual shareholders' meeting if the corporation elects its directors by written consent. Makes clear that the authority of a Board to delegate to officers authority, within limits, to make grants of shares, stock options and warrants to corporate employees; however, prohibits such delegated officer from awarding himself or herself any such shares, options, or warrants. Creates clearer and more objective and uniform standards for identifying "conflict transactions" between a corporation and its officers or directors and the decision making process for the board and shareholders in treating them.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenue - \$14,800/FY12-13  
\$29,600/FY13-14 and Subsequent Years**

**Increase State Expenditures - \$41,200/One-Time/FY12-13**


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Assumptions:

- The effective date of the bill is January 1, 2013.
- According to the Secretary of State's office, under current law there is not a fee enumerated for filing Articles of Conversion for a for-profit corporation that converts to an LLC. Therefore, such entities are charged a fee of \$20 for the conversion based on Tenn. Code Ann. § 48-11-303(a)(33). The proposed fee is \$100. The increase in revenue is based on the difference between the current fee of \$20 and the proposed fee of \$100.
- The estimated number of conversions in FY12-13 will total 370.
- The FY12-13 increase in state revenue of \$14,800 is based on one-half of the fiscal year (January 1, 2013 – June 30, 2013) or 185 filings x \$80.
- For FY13-14 and subsequent years, the increase in state revenue of \$29,600 is based on a full fiscal year or 370 filings x \$80.
- According to the Secretary of State's office, revenue is allocated 97 percent to the General Fund and three percent to the Secretary of State.
- A one-time increase in state expenditures of \$41,236 for the following business analysis and program coding hours: programming coding by Tecuity, Inc. to modify the TN-BEAR computer system is estimated to be 326 hours @ \$100 per hour = \$32,600; business analysis hours are calculated at 30% of computer programming cost hours and business analysis hours by IT-Pro Contractor is estimated to be 98 hours @ \$88.12 per hour = \$8,636.
- According to the Secretary of State's office, any increase in state expenditures for updating and designing forms, computer system testing, and training of staff on new law changes can be accomplished with existing personnel and resources of the department.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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